

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA, ex rel.)	
SUSAN NEDZA, M.D.,)	
)	Case No. 15-cv-06937
Plaintiff/Relator,)	
)	Judge Jorge L. Alonso
v.)	
)	
AMERICAN IMAGING MANAGEMENT,)	
INC. et al.,)	
)	
Defendants.)	

**DEFENDANT HEALTH FIRST HEALTH PLANS, INC.’S MOTION TO DISMISS
PLAINTIFF’S FIRST AMENDED COMPLAINT**

Defendant Health First Health Plans, Inc. (“Health First”), by and through its attorneys and pursuant to Rules 8(a), 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure, hereby moves this Court to dismiss the First Amended Complaint (“FAC”) filed by Plaintiff/Relator Susan Nedza (“Relator”), with prejudice, because the allegations contained therein are insufficiently pled and fail to state claims upon which relief may be granted, and because it is barred as publicly disclosed. In support thereof, Health First states the following:

1. Relator filed the instant two-count FAC on December 21, 2017 alleging “[v]iolations of 31 U.S.C. § 3729(a)(1)(A)” and “[v]iolations of 31 U.S.C. § 3729(a)(1)(B)”. (FAC/Dkt. No. 22.)
2. Relator’s Complaint should be dismissed under Rule 12(b)(6) for several reasons. *First*, the FAC fails to allege specific conduct by Health First, fails to allege the submission of specific claims or statements by Health First, and fails to allege falsity with particularity, as required by Rule 9(b); in fact, Relator’s allegations against Health First are too sparse even to satisfy Rule 8. *Second*, the FAC’s allegations do not, as a matter of law, constitute actionable

falsity, and would not have been material to the Government's decision to pay Health First's claims. *Third*, the FAC's allegations were publicly disclosed and are therefore subject to the False Claims Act's public disclosure bar.

WHEREFORE, for the foregoing reasons, which are more fully discussed in Defendant Health First's Memorandum of Law in Support of Its Motion to Dismiss Plaintiff's First Amended Complaint, Health First respectfully requests that the Court enter an order dismissing the FAC with prejudice, awarding Health First its costs and fees incurred in defending against this action, and for any other relief the Court deems just and appropriate.

February 12, 2018

Respectfully Submitted,

s/Jill S. Vorobiev

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*Counsel for Defendant Health First,
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 12, 2018, the foregoing *Defendant Health First Health Plan, Inc.'s Motion to Dismiss Plaintiff's First Amended Complaint* was filed through the Court's CM/ECF system, which shall send notification of such filing to all counsel of record at their e-mail addresses on file with the Court.

s/Jill S. Vorobiev

One of the Attorneys for Health First Health Plans, Inc.